

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

INITIAL STATEMENT OF REASONS

Hearing Date: July 1, 2003

Subject Matter

of Proposed Regulations: The proposed regulations amend requirements relating to program operational issues.

Sections Affected: **Amend** Vocational Nursing: sections 2526, 2529, 2532, 2533 and 2534.; add section 2524.1.

Amend Psychiatric Technician: sections 2581, 2584, 2586, 2587, 2588 and 2588.1; add section 2579.11.

Section 2526(a)(14) VN Regulations; Section 2581(a)(14) PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation amends the “Procedure for Accreditation” to clarify that alternate students for a newly admitted class may participate in class sessions until the commencement of clinical experience in clinical facilities. The regulation also mandates that each alternate student must be informed in writing of his/her alternate status.

NECESSITY.

The Board’s current practice is to allow vocational nursing and psychiatric technician programs to admit alternate students in each new class to replace students who drop out prior to commencement of clinical experience. In allowing the admission of alternate students, the Board’s intention is to enable schools to educate the maximum number of students that their resources permit. Up to now the Board defined “clinical experience” as that obtained under the direction of the program in a skills laboratory or actual patient care settings.

Program directors asked the Board to reconsider this regulation. Directors asked that initial skills laboratory experience be exempted from the definition of “clinical experience” relative to this regulation. It is during this initial laboratory experience that some students determine that they are not going to be able to meet the demands of the nursing program and drop out. Allowing the alternate students to continue through this experience allows the vacated positions to be filled.

The proposed regulations clarify that alternate students may participate in classes until the beginning of the students’ clinical experience in clinical facilities. Once this clinical

experience begins, the number of students in the class must be within the program's Board-approved class size.

The proposed regulations also specify that alternate students must be informed in writing of their alternate status. Finally, the regulations limit the number of alternate students a program may enroll.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Information obtained from vocational nursing and psychiatric technician program directors was the only data relied upon. The Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to or considered by the Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations would not have a significant adverse economic impact on any business.

Section 2529(c)(4) VN Regulations; Section 2584(c)(4) PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation amends the "Faculty Qualifications" to clarify language related to "additional faculty" in vocational nursing and psychiatric technician programs.

NECESSITY.

It is the Board's mandate to protect the health, safety, and welfare of California consumers. As such, the Board approves faculty in vocational nursing and psychiatric technician programs based on regulatory criteria.

The current regulations state that “persons of other disciplines” may serve as “additional faculty”. The regulations appeared to imply that nurses or psychiatric technicians could not serve as “additional faculty”. The intent of the proposed regulations is to allow any person who has the qualifications to teach in a community college or a state university in California or holds a baccalaureate degree in the field related to the curriculum content taught, or meets the requirements for a vocational education credential to teach “non-nursing” courses such as Anatomy and Physiology, Pharmacology or Nutrition. The proposed regulation clarifies that registered nurses, licensed vocational nurses and psychiatric technicians may serve in the capacity of “additional faculty” if their educational background supports teaching one of these traditionally “non-nursing” courses.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to or considered by the Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Board has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations would not have a significant adverse economic impact on any business.

Section 2584(c)(5)(A)(B) PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation amends the “Faculty Qualifications” regulations to make language parallel to related vocational nursing regulations as it references the provider classifications that may be approved as “teacher assistant” in a psychiatric technician program.

NECESSITY.

It is the Board's mandate to protect the health, safety, and welfare of California consumers. As such, the Board approves faculty in vocational nursing and psychiatric technician programs based on regulatory criteria.

The proposed regulation clarifies the criteria for "teacher assistants" in psychiatric technician programs. In addition to psychiatric technicians, the regulations will permit registered nurses to function as teacher assistants. This language was inadvertently omitted when initial regulations were written. Current language in vocational nursing regulations permits registered nurses and licensed vocational nurses to be teacher assistants.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

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EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations would not have a significant adverse economic impact on any business.

Section 2532(c) VN Regulations; Section 2586(c) PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulations modify the "Curriculum Hours" to permit 12-hour days for clinical experience.

NECESSITY.

Currently, the maximum length of the school day allowed by regulation is eight hours. More and more clinical facilities are using 12-hour shifts in order to more efficiently utilize nursing staff. When students are limited to a maximum of eight hours per day they have to leave the clinical area in the midst of a shift. This can be disruptive to the clinical facility's nursing staff and can interrupt the student's learning. In addition, student placement for clinical experience is hampered because some clinical facilities refuse to accept students if the students cannot remain in the clinical area for the full 12-hour shift.

The proposed regulations permit 12-hour school days to be used for clinical experience. The regulations limit the 12-hour day to clinical experience, only. School days which consist of theory classes or a combination of theory and clinical experience may not exceed eight hours.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Information obtained from surveys of vocational nursing and psychiatric technician program directors and employers of vocational nurses and psychiatric technicians was the only data relied upon. The Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

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REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

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EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations would not have a significant adverse economic impact on any business.

Section 2533(e) VN Regulations; Section 2587(e) PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation amends the language of this section to be in accord with proposed section 2529(c)(4) of the vocational nursing regulations and section 2584(c)(4) of the psychiatric technician regulations. The term “non-nurse” is removed from section 2529(c)(4) of the vocational nursing regulations and the phrase “other professional instructors” is removed from section 2584(c)(4) of the psychiatric technician regulations. Those terms are replaced with the term “additional faculty”.

NECESSITY.

It is the Board’s mandate to protect the health, safety, and welfare of California consumers. As such, the Board approves faculty in vocational nursing and psychiatric technician programs based on regulatory criteria. The proposed regulation clarifies that the courses listed in these sections may be taught by “additional faculty.”

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

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Section 2534(e) VN Regulations; Section 2588(e) PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulations delete the requirement that a vocational nursing or psychiatric technician program have prior Board approval to schedule more than 50% of clinical experience during evening hours.

NECESSITY.

Placement of students in the clinical area has become a challenge as clinical facilities become overburdened with work and impacted with students. Placement of students into clinical areas during evening hours has become a necessity in order for the students to get the required clinical experience.

When the original regulation was approved, patient care offered during the evening hours was much different and was less complex than that during the daytime hours. The difference limited student learning experiences. As the severity of illness of hospitalized patients has increased, care given on the day shifts and on the evening shifts has become the same. Required learning experiences can be garnered on either shift. Deleting this regulation would allow programs to use either shift to obtain clinical experiences for their students.

The deletion of this regulation would negate the need for prior Board approval of changes in clinical schedules and thus enhance a program's ability to complete scheduling changes based on unanticipated needs of the program or clinical facility.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Surveys of vocational nursing and psychiatric technician program directors and employers of vocational nurses and psychiatric technicians as well as a review of current healthcare literature was the data relied upon. The Board did not rely on any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

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Section 2588.1(c) PT Regulations

SPECIFIC PURPOSE/NECESSITY OF THE REGULATION.

Section 2588.1, PT, specifies the general requirements for clinical preceptorships. With prior Board-approval, PT programs may offer an optional clinical preceptorship during the last nine weeks of the program.

The proposed amendment to section 2588.1(c) corrects an inadvertent error by deleting the term “licensed vocational nurse” in the meaning of “preceptor,” and replacing it with the term “psychiatric technician.”

Add Sections 2524.1 VN Regulations; Section 2579.11 PT Regulations

SPECIFIC PURPOSE OF THE REGULATION.

The specific purpose of the proposed regulations is to establish guidelines relative to the disclosure of complaints against licensed vocational nurses or psychiatric technicians in regulation.

NECESSITY.

Governmental representatives, leading researchers, and client advocates have established the consumer’s right to comprehensive health care by knowledgeable and competent practitioners. Such health care requires the consumer to become an active participant in all aspects of his care. Such action has resulted in a better informed and increasingly assertive consumer.

Protection of the health, safety, and welfare of California consumers is the Board’s highest priority. To ensure such protection, the Board is authorized to investigate complaints of unprofessional conduct and unsafe, incompetent practice by licensed vocational nurses and psychiatric technicians. Occasionally, such misconduct results in harm or injury to the consumer.

Pursuant to the California Government Code (Public Records Act), the public has a distinct right to access information in the government's possession. However, unconditional access is not authorized. Specific information pertaining to complaints alleging misconduct by licensees and relevant investigations are exempt from disclosure.

The Board initially adopted a policy relative to complaint disclosure on May 14, 1993. In July 2001, the Department of Consumer Affairs (DCA) introduced discussion of consumer complaint disclosure standards. The intent of establishing such standards was enhancement of consumer protection. After extensive feedback from boards, bureaus, and the public, "Recommended Minimum Standards for Consumer Complaint Disclosure" were adopted by the DCA in July 2002. The DCA recommended that all boards use the standards as a framework for the development of standards and/or a complaint disclosure policy by each board.

In February 2003, after careful consideration of the recommended standards, the Board adopted a revised Consumer Complaint Disclosure Policy. The policy clarifies specific information that may be disclosed relative to complaints against licensed vocational nurses and psychiatric technicians while maintaining the integrity of investigations and/or prosecutions.

To ensure uniformity in disclosure, the proposed regulations will establish the Board's revised policy in regulation.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

Existing statutes under Division 2, Chapter 6.5 of the California Business and Professions Code.

Existing statutes under Division 2, Chapter 10 of the California Business and Professions Code.

Existing statutes under California Government Code, Sections 6250 through 6270.

Existing regulations under Division 25, Chapter 1 of the California Code of Regulations.

Existing regulations under Division 25, Chapter 2 of the California Code of Regulations.

Department of Consumer Affairs' Recommended Minimum Standards for Consumer Complaint Disclosure.

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EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations would not have a significant adverse economic impact on any business.

No alternative that was considered would be either more effective than, equally as effective as, or less burdensome to affected private persons than the proposed regulations.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. The Board could do nothing, maintaining the existing system. This alternative does not address the “Recommended Minimum Standards for Consumer Complaint Disclosure” adopted by the Department of Consumer Affairs.
2. The Board could rescind the Consumer Complaint Disclosure Policy. This alternative would be inconsistent with the Public Records Act which requires an agency to aid the member of the public in making a focused request by assisting in identifying the records and information that may be responsive to the request.